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Docket No. G-045US02PCT
Serial No. 09/744,527Remarks

Claims 43-76 and 78-81 were pending in the subject application. Applicant acknowledges that claims 80 and 81 have been withdrawn from further consideration as being drawn to a non-elected invention. By this Amendment, Applicant has canceled claims 1-81 and presented new claims 82-127. Support for the new claims can be found throughout the subject specification and in the claims as originally filed (see, for example, page 10, line 22 through page 11, line 36 and page 43, line 34 through page 48, line 29). Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 82-127 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

It is noted that the Office Action indicates that claims 80-81 (now presented as claims 124-127) are directed to an invention that is independent or distinct from the invention originally claimed. However, Applicant again respectfully requests that any requirement to cancel claims not currently under examination be held in abeyance in order to allow for the rejoinder of claims directed to methods of making and/or using the compositions claimed herein in light of Patent Office policy related to the treatment of product and process claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b) at such time as the composition claims currently pending are found allowable.

Claims 43-76 and 78-79 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Greene *et al.* (U.S. Patent No. 5,786,193) or under 35 U.S.C. § 102(b) as being anticipated by Greene *et al.* (WO 96/21736). The Office Action argues that the references teach fragments and portions of a GGPPS polypeptide and that a truncated polypeptide is one that is a part broken off of the wildtype, detached, or incomplete, which can be construed as a fragment or variant of the wildtype, modified by deletion. Applicant again respectfully traverses.

It is well settled law that a claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully submits that the subject invention is not anticipated by the currently cited art as the disclosure of the reference fails to teach polypeptide fragments wherein the fragment consists of a contiguous span of: a) 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, or 100 amino acids; or b) amino

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acid positions 200 through 300 of SEQ ID NO: 4. It is further submitted that the cited references also fail to teach a composition comprising an isolated recombinant polypeptide fragment consisting of a contiguous span of: a) 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, or 100 amino acids; or b) amino acid positions 200 through 300 of SEQ ID NO: 4 fused to a heterologous polypeptide sequence. Accordingly, reconsideration and withdrawal of the rejections is respectfully requested.

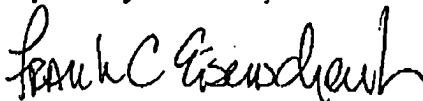
It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicant's agreement with or acquiescence in the Examiner's position. Applicant expressly reserves the right to pursue the invention(s) disclosed in the subject application, including any subject matter canceled or not pursued during prosecution of the subject application, in a related application.

In view of the foregoing remarks and amendments to the claims, Applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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